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REMARKS

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Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

No claims have been canceled or added by this amendment. Claims 1 and 4 have been amended. Thus, claims 1-9 are pending in the present application, of which claims 1 and 4 are independent.

Noted - Priority Document Received By USPTO

The indication (see Office Action Summary, boxes 12(1) are checked) that the certified copy of the priority document has been received by the USPTO is noted with appreciation.

Noted – Information Disclosure Statements Considered

The indication (see Examiner-initialed attachments mailed with Office Action dated May 28, 2008) that the Information Disclosure Statements as filed on November 20, 2003 and December 12, 2007 and references listed therein have been considered is noted with appreciation.

Noted - Drawings Approved

The indication (see Office Action Summary, boxes 10(a) of the Office Action dated May 28, 2008 are checked) that the Drawings (submitted on November 20, 2003) have been approved is noted with appreciation.

Claim Rejection Under 35 U.S.C. §101

Claims 4-9 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. In particular, the Office Action asserts that the apparatus as presented in the claim language is not limited to any statutory hardware elements and is considered software, and that an apparatus containing software is considered a program per se and is non-statutory.

Claim 4 is amended to recite: "A node apparatus <u>for connection to a network</u>". The added phrase clearly indicates that the claimed "node apparatus" is not software, but is a hardware element that is to be connected to a network. Besides, the term "apparatus" clearly indicates that what is claimed is not a program per se, but is an apparatus. Further, even if it is agreed for the sake of an argument that the claimed apparatus contains software, the fact that an apparatus contains software does not make such an apparatus a program per se. Claim 4 is directed to a "node apparatus for connection to a network," and is not directed to a program per se.

Moreover, claim 4 recites a receiving unit and a synchronous state indication code converting unit as its claim elements. From the recitations of these tangible units, it is clear that the claimed "node apparatus" is an apparatus comprising these hardware elements.

Further, the claimed apparatus is tied to a particular machine that is a "node apparatus". The claimed apparatus also transforms a particular article into a different state or thing by converting a synchronous state indication code indicative of a state of a physically tangible clock signal used in a given synchronization scheme into a synchronous state indication code used in another synchronization scheme.

In view of the foregoing discussion, the rejection of claims 4-9 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Claim Rejection Under 35 U.S.C. §103

Claims 1-9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maeda et al. (U.S. Patent No. 6,618,455, hereafter Maeda) in view of Sweeney et al. (US 2004/0208568, hereinafter Sweeney).

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INDEPENDENT CLAIM 1

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As an example, independent claim 1 recites, among other things, a feature of "the first synchronous state indication code is converted into the second synchronous state indication code such that plural values of the first synchronous

state indication code different from each other are assigned to respective values of the second synchronous state indication code different from each other." As will be explained below, at least the above-noted feature of claim 1 is a distinction over Sweeney, and thus over its combination with Maeda.

On page 4, the Office Action admits that Maeda does not teach converting the first synchronous state indication code used by the first synchronization scheme into a second synchronous state indication code used by the second synchronization scheme. The Office Action then relies on Sweeney, and contends that Sweeney in paragraph 0027, 0043, 0062, and Fig. 2 discloses the above-noted code conversion. However, Sweeney discloses in paragraph 0062:

> Also generated within the clock and data recovery loss of signal detection module 24 is a loss-of-signal indication 22 based on the presence of a predetermined number of consecutive logical zeros in the binary data stream or on the absence of a recovered clock signal for a predetermined interval of time. The loss-of-signal 22 is reset after declaration based on the presence of a predetermined number of consecutive logical transitions in the binary data stream 25 or in the presence of a recovered clock signal for a predetermined interval of time.

Namely, Sweeney only suggests detecting a poor quality state of a recovered clock signal (i.e., "presence of a predetermined number of consecutive logical zeros in the binary data stream" or "absence of a recovered clock signal") to generate a state indication signal (i.e., "loss-of-signal 22") and detecting a good quality state of a recovered clock signal (i.e., "presence of a predetermined number of consecutive logical transitions in the binary data stream" or "presence of a recovered clock signal") to reset the state indication signal (i.e., the resetting of the "loss-of-signal 22"). In other words, Sweeney only teaches or suggests generating and resetting a state indication signal based on a state of quality of a recovered clock signal. Sweeney is silent about converting a first synchronous state indication code into a second synchronous state indication code, let alone the plural values of a synchronous state indication code different from each other. Hence, the above-

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noted feature of claim 1, namely "the first synchronous state indication code is converted into the second synchronous state indication code such that plural values of the first synchronous state indication code different from each other are assigned to respective values of the second synchronous state indication code different from each other," is a distinction over Sweeney. The noted feature is also a distinction over Maeda as evidenced, e.g., by the Office Action. That is, the Office Action does not assert Maeda as disclosing the code conversion feature.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 1 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claim 1. Claims 2-3 ultimately depend from claim 1, respectively, and so at least similarly distinguish over the asserted combination of references.

<u>**INDEPENDENT CLAIM 4**</u>

As an example, independent claim 4 recites, among other things, a feature of "the conversion of the synchronous state indication code is performed such that plural values of the synchronous state indication code different from each other used by said other one of the first synchronization scheme and the second synchronization scheme are assigned to respective values of the synchronous state indication code different from each other used by said given one of the first synchronization scheme and the second synchronization scheme."

As previously described, Sweeney only teaches or suggests generating and resetting a state indication signal based on a state of quality of a recovered clock signal. Sweeney is silent about converting a synchronous state indication code into another synchronous state indication code, let alone the plural values of a synchronous state indication code different from each other. Hence, the above-noted feature of claim 4 is a distinction over Sweeney, and its combination with Maeda as evidenced, e.g., by the Office Action. Claims 5-9 ultimately depend from

claim 4, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 1-9 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-4610.

Respectfully submitted,

Dated: October 5, 2009   By   /Scott A. Elchert/

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